

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CLAUDETTE MACK, Plaintiff, VS. P/O JEFF MANNING and P/O RUSSELL, Defendants.	: : : : : : : : : :	CIVIL ACTION No. 02-3916
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ORDER

AND NOW, this ____ day of April, 2003, upon consideration of the Motion in Limine of Defendants to preclude any and all evidence and argument by counsel concerning Police Department Internal Affairs investigations regarding the defendant and/or any police officer witnesses, and any response thereto, it is hereby **ORDERED** that said Motion is **GRANTED**.

Plaintiff and her attorneys are precluded from introducing any evidence, testimony, argument, and shall not otherwise reference or mention IAD investigations involving the defendant police officers or any other police officer witness.

BY THE COURT:

JOYNER,

J.

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DEFENDANTS' MOTION IN LIMINE

Defendants, through their undersigned attorney, move this Honorable Court for the entry of an order precluding the admission of any evidence or argument referring or relating to Internal Affairs investigations involving the defendant police officers or the police witnesses. In support of their motion, defendants incorporate by reference their Memorandum of Law filed contemporaneously herewith.

Respectfully submitted,

Dated: April 28, 2003

LYNNE A. SITARSKI
Deputy City Solicitor
City of Philadelphia, Law Department
1515 Arch Street, 14th Floor
Philadelphia, Pennsylvania 19102
(215) 683-5446

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CLAUDETTE MACK,
Plaintiff,
VS.
P/O JEFF MANNING and
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Defendants.

: **CIVIL ACTION**
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 : **No. 02-3916**
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MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION IN LIMINE

Defendants Police Officer Jeffrey Mannings and Police Officer Sandra Russell, by and through undersigned counsel, hereby submit this Memorandum of Law in support of their motion to preclude plaintiff from offering into evidence any testimony, documents or other evidence referring or relating in any way to police department Internal Affairs Division investigations involving defendant Police Officer Sandra Russell or any police officer witness.

Plaintiff's attorney requested records relating to the Internal Affairs Division files on the defendant police officers. There were no such records relating to Officer Jeffrey Mannings. However, files relating to Police Officer Sandra Russell were provided to plaintiff. Plaintiff may ask questions at trial about the investigations conducted by IAD into other acts of alleged misconduct by Police Officer Russell.

Importantly, plaintiff did not make a citizens' complaint to IAD about the incident at issue in this lawsuit. Thus, any IAD records relating to Officer Russell relates to incidents other than the one at issue in this lawsuit.

Any IAD records or testimony concerning other allegations and other alleged incidents are not admissible as evidence that defendants violated plaintiff's civil rights. The Federal Rules of Evidence "generally prohibit the introduction of evidence of extrinsic acts that might adversely reflect on the actor's character, unless that evidence bears upon a relevant issue in the case such as motive, opportunity, or knowledge." Huddleston v. United States, 485 U.S. 681, 685 (1988) (citing Fed. R. Evid. 404(b)). Applying this principle, courts consistently hold that in a §1983 action alleging police misconduct, plaintiff may not introduce evidence that the defendant police officer allegedly engaged in other acts of misconduct. See, e.g., Ricketts v. City of Hartford, 74 F.3d 1397, 1414-15 (2d Cir. 1996); Hopson v. Fredericksen, 961 F.2d 1374, 1379 (8th Cir. 1992); Berkovich v. Hicks, 922 F.2d 1018, 1022-23 (2d Cir. 1991); King v. Macri, 800 F. Supp. 1157, 1161-62 (S.D.N.Y. 1992); Wallace v. Hano, 1992 U.S. Dist. LEXIS 13388, *5-8 (S.D.N.Y. 1992); see also United States v. Booker, 1997 U.S. Dist. LEXIS 5928 (E.D. Pa. 1997) (prohibiting criminal defendant from introducing evidence concerning alleged misconduct by arresting police officer).

For the foregoing reasons, defendants respectfully request that the Court enter an order precluding plaintiff from offering any evidence relating to other IAD investigations involving Police Officer Russell or any other police officer witness.

Respectfully submitted,

Dated: April 28, 2003

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CERTIFICATE OF SERVICE

I hereby certify that on this date, a true and correct copy of the foregoing Motion in Limine of Defendants was served upon counsel for plaintiff via fax at the following address:

Alan Yatvin, Esquire
230 S. Broad Street, Suite 503
Philadelphia, PA 19102

BY: _____
LYNNE A. SITARSKI
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(215) 683-5446

DATED: April 28, 2003